



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** VAR718  
**Admission Authority:** The London Borough of Havering  
**Date of decision:** 10 August 2017

### **Determination**

**In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the London Borough of Havering for Wykeham Primary School.**

**I determine that for admissions in September 2017 and September 2018 the published admission number (PAN) for the school shall be 60.**

**In accordance with section 88I (5) of the School Standards and Framework Act 1998, I also find that these arrangements fail to comply with the requirements concerning admission arrangements in the way set out in this determination.**

### **The referral**

1. The London Borough of Havering has referred a variation to the Adjudicator about the admission arrangements for Wykeham Primary School, a community school, for September 2017 and September 2018. The variation is a reduction to 60 for both years from the determined PAN of 90.

### **Jurisdiction**

2. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that:

“where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed

variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”.

I am satisfied that the proposed variation is within my jurisdiction.

3. I am also using my power under section 88I (5) of the Act to consider the arrangements as a whole.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code (the Code).

5. The documents I have considered in reaching my decision include:

- (i) the local authority’s email and form of referral of 19 June 2017 and subsequent correspondence;
- (ii) the determined arrangements for September 2017 and September 2018 and the proposed variation to those arrangements;
- (iii) a copy of the local authority’s booklet for parents seeking admission to schools in the area in September 2017;
- (iv) a copy of the notification which the local authority sent to appropriate bodies about the proposed variation;
- (v) evidence that the local authority had consulted the governing body of the school before making the variation request.

### **Other matters**

6. When I looked at the arrangements which the local authority had determined for both September 2017 and September 2018, it appeared to me that they may fail to comply with the requirement which is set out in paragraph 2.16 of the Code. This states that:

*“Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that, where they have offered a child a place at a school:*

- a) that child is entitled to a full-time place in the September following their fourth birthday;*
- b) the child’s parents can defer the date their child is admitted to the school until later in the school year ....;*
- c) where the parents wish, children may attend part-time until later in the school year ....”*

I have explained the basis of my concerns to the local authority and sought its comments regarding them.

### **Consideration of Factors**

7. The local authority explained in a consultation letter sent to nearby schools that the school had been expanded in September 2013 to provide 90 places in each year group, in line with projections made at the time of pupil numbers in the local

area. It said that the school had, however, never admitted this number of children in any of the year groups admitted since that time, partly as a result of its location close to the borough boundary and the effect of parents choosing to send their children to schools in the neighbouring authority. In its form of referral, the local authority said that the school had a deficit budget and that it needed to reorganise teaching groups and reduce the number of teaching staff employed. It also told me that there was sufficient surplus capacity within local schools to accommodate anticipate new arrivals if the PAN at Wykeham Primary School were reduced to 60 from September 2017. In its response to concerns expressed by one of the schools which it consulted about the local sufficiency of school places, it went further and stated that *“the projected deficit for school places in the Hornchurch planning area will be met by expanding other popular and successful schools in the area.”*

8. In the light of what both the school and the local authority have told me is a fluid situation concerning pupil movement in the area, which is accompanied by high levels of turnover at the school, I have not sought to examine pupil projections in detail. The variation which has been requested for the school in its circumstances is in any case more that capable of being offset by actions which the local authority has said it would be willing to take should the need for local pupil places arise. In practice, none of the last five admission groups at the school have been filled, with each year having at least double-figure numbers of vacancies. I have asked the local authority to confirm to me the number of children who have been allocated a place in Reception (Year R) for September 2017. This number at 5 July 2017 was 58 and so within the proposed revised PAN.

9. The local authority’s referral made reference only to the PAN for September 2017. I have therefore approached it to seek its intention concerning admissions for September 2018, since when I looked at its website this stated that a PAN of 90 had been set. I was concerned that if it was the intention of the local authority to maintain a PAN of 90 for admissions in 2018, this might diminish any justification for the requested variation for September 2017. The local authority has replied that it *“is able to fully support the reduction in PAN to 60 in Reception 2017, and 2018”*. My view of this is that I should treat this statement as a request to vary also the determined arrangements for September 2018, since the school has told me that its intended restructuring by forming some mixed-age classes needs to be in place for *“at least two academic years ...to get the budget securely back on track which is why we are requesting that the PAN for 2018-19 be held at 60 also.”*

10. It is a requirement of section 88E(2)(b) of the Act that all admission authorities and the governing bodies for all community and voluntary controlled schools in the relevant area should be notified when an admission authority approaches the Adjudicator to request that a variation be made to determined admission arrangements. This requirement is set out in paragraph 3.6 of the Code and footnote 61 thereto, and this is clearly referred to (in spite of the local authority’s assertion to the contrary) in the form which those requesting a variation are asked to complete. The local authority however notified primary schools within a three-mile radius of the school, which falls short of “the relevant area”, which is the area of the local authority itself under section 88F(4) of the Act.

11. Although this requirement has therefore not been met, I do not consider that this breach is sufficiently serious that it should invalidate the variation request itself as originally submitted, which was in respect of the arrangements for September 2017. I am also willing to view the notifications which took place as being relevant to the subsequently submitted variation request regarding the arrangements for September 2018, since this is how I believe those concerned will have understood them. I approve the variation of the arrangements for both September 2017 and September 2018 to provide in each case that the PAN be set at 60.

12. In a section of the arrangements for both years which is headed "Starting School", the following wording is used:

*"In recognition that some parents will feel that their child is not ready to start school in the September after their child turns four, parents can request that their child attends part time until they reach statutory school age or that the date their child is admitted to school is deferred until later in the same academic year...."*

13. The local authority has told me that it is of the view that this statement conforms to that which is required by paragraph 2.16 of the Code, which I have set out above. My view, however, is that paragraph 2.16 confers on parents the right to determine the date of admission of a child to school prior to the commencement of compulsory schooling and also whether this should be on a full or part-time basis. This is, of course, consistent with the fact that a child does not reach compulsory school age until the beginning of the term after the term in which he or she reaches the age of five. An ability to make a "request" to defer admission of the child or for the child to attend school part time does not convey the existence of this right to parents with the clarity that paragraph 2.16 requires. The arrangements, both those for 2017 and for 2018 are therefore in breach of this requirement.

## **Conclusion**

14. I have set out above the reasons why I approve a variation to the arrangements for the school for September 2017 and September 2018.

15. I have also explained why I am of the view that these arrangements fail to comply with what the Code requires in paragraph 2.16.

## **Determination**

16. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the London Borough of Havering for Wykeham Primary School.

17. I determine that for admissions in September 2017 and September 2018 the published admission number (PAN) for the school shall be 60.

18. In accordance with section 88I (5) of the School Standards and Framework Act 1998, I also find that these arrangements fail to comply with the requirements concerning admission arrangements in the way set out in this determination.

Date: 10 August 2017

Signature:

Schools Adjudicator: Dr Bryan Slater